

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1430 – SB 1634

April 8, 2014

**SUMMARY OF ORIGINAL BILL:** Authorizes an individual to file a petition to abate gang related conduct. The petition may be filed against the gang itself in addition to the individuals engaging in the gang related conduct.

Permits discovery to be performed under the Tennessee Rules of Civil Procedure consistent with a scheduling order.

Authorizes a judge, in addition to an order of abatement, to designate a geographically defined area or areas to prevent a gang from gathering in public in groups of two or more and to prevent any gang member from entering any public space where the gang has been found to have carried out its operations.

Any “gang injunction” shall include an “opt out” provision permitting an individual enjoined by a “gang injunction” to seek an order of dismissal from the injunction by showing the individual has renounced involvement with the gang in question and for the last two years has not committed any crimes, been in the company of a gang member, or obtained any new gang-related tattoos.

Creates a Class C misdemeanor for violating a “gang injunction”.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (015763):** Deletes Section 4 of the proposed legislation and replaces with a new section that changes the burden of proof for proving a criminal gang as a nuisance from preponderance of the evidence to clear and convincing evidence. Changes the geographical areas from which gang members can be enjoined from entering from “any public ground, place, or space” to “any specific public park or parcel of property”.

Adds a new section to the proposed legislation that authorizes a petitioner to add individuals to the injunction who were not specifically named in the original injunction.

Adds a new section to the proposed legislation requiring the Commissioner of the Department of Safety to consult with district attorneys general in jurisdictions where criminal gang nuisance injunctions are in effect and submit a report, by April 1 each year, to the Judiciary Committee of

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the Senate and the Civil Justice Committee of the House of Representatives regarding the implementation of the proposed legislation. The report shall include the number of injunctions in effect, number of persons charged with violations, and all criminal charges filed during the previous calendar year against persons specifically named in a gang injunction.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**


**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- According to the local court clerks and the Administrative Office of the Courts, the proposed legislation will not significantly impact courts or court clerks.
- According to the Department of Correction and the Department of Safety, the proposed legislation will not significantly impact the State.
- It is assumed that the proposed legislation will not result in a significant amount of misdemeanor convictions or incarceration costs of local governments.
- It is assumed that any impact on the caseloads of the courts, district attorneys, and public defenders can be accommodated within existing resources.
- According to the Department of Safety, the proposed legislation will not significantly impact the department.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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